

SCHOOL DISTRICTS

35. Applicant shall pay all school fees required by the Chula Vista Elementary and High School Districts.
36. Applicant of Lot 1 shall provide a copy of an approved (stamped/signed) Tentative Map to the Chula Vista Elementary and High School District in order to comply with Office of Public School Construction eligibility audit.

SWEETWATER AUTHORITY

37. Applicant of Lot 1 shall comply with all the requirements from the Water Authority, pursuant to letter to City staff dated July 5, 2007.

MISCELLANEOUS CONDITIONS OF APPROVAL

38. Applicant and/or Property Owner of Phase 2/Lot 2 shall submit a Precise Plan and go through the Chula Vista Redevelopment Corporation design review process to ensure compliance with the following design parameters:
- Mixed-use development at General Plan level densities to reach a minimum of 32 du/ac for the combined project (Phase 1 & 2);
 - Significant architectural elements that continue to emphasize this site as a "Gateway" to Southwest Chula Vista;
 - Mixed-use component to meet all development standards and processes;
 - Neighborhood serving commercial component to be conveniently located in relation to the transit station and storefronts that promote pedestrian activity along Palomar Street and Industrial Boulevard;
 - Internal connection to Phase 1;
 - Continuous pedestrian access to transit; and
 - Integrated design elements with Phase 1.
39. Lot 2 shall require an amendment to this Conditional Use Permit in order to develop Lot 2 and if the uses for Lot 2 as permitted herein are expanded.
40. The Applicant of Lot 1 shall comply with all applicable federal, state, and local requirements. Any violation of applicable City ordinances, codes, standards, and policies, or of any condition of approval shall be grounds for revocation or modification of this Conditional Use Permit by the City of Chula Vista.
41. Violation of any terms or conditions set forth herein shall be grounds for revoking or denial of building permits.

42. This permit shall become void and ineffective for Lot 1 if not used or extended within one year from the effective date thereof, in accordance with Section 19.14.600 of the Municipal Code.
43. The Applicant/owner of Lot 1 shall submit CC&Rs of the City's approval that incorporate the requirements of the conditions herein. In any case if the Project is not in compliance with the CC&R's, this permit is subject to modification or revocation.
44. This permit shall be subject to any and all new, modified, or deleted conditions imposed after approval of this permit to protect the public from a specific condition dangerous to its health or safety or both due to the project, which condition(s) the City shall impose after advance written notice to the permittee and after the City has given the permittee the right to be heard with regard thereto. However, the City in exercising this reserved right/condition, may not impose a substantial expense or deprive permittee of a substantial revenue source which the permittee cannot, in the normal operation of the use permitted, be expected to economically recover.
45. The Property Owners for Lot 1 and Lot 2 shall and do hereby agree to indemnify, protect, defend, and hold harmless the City, its Council members, officers, employees, agents, and representatives from and against all liabilities, losses, damages, demands, claims, and costs, including court costs and attorney's fees (collectively, liabilities) incurred by the City arising directly or indirectly from a) City's approval and issuance of this permit, b) City's approval or issuance of any other permit or action, whether discretionary or non discretionary, in connection with the use contemplated herein, and without limitation, any and all liabilities arising from the operation of the facility. Compliance with this provision is an express condition of this permit and this provision shall be binding on any and all of the successors and assigns of Lot 1 and Lot 2.

EXECUTION AND RECORDATION OF RESOLUTION OF APPROVAL

The Property Owner of Lot 1 shall execute this document by signing lines provided, said execution indicating that the property owner and applicant have each read, understand and agree to the conditions contained herein. Upon execution, this document shall be recorded with the County Clerk of the County of San Diego, at the sole expense of the property owner and/or applicants, and a signed, stamped copy returned to the City Clerk with a copy to the Planning Department. Failure to return a signed and stamped copy of this recorded document within thirty days of recordation to the City Clerk shall indicate the property owner's/applicants' desire that the project, and the corresponding application for building permits and/or business license, be held in abeyance without approval. Said document also on file in the Clerk's Office as Document No. _____.

Property Owner Signature

Date

Applicant Signature

Date

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Tentative Map Conditions
Bayvista Walk Mixed-Use Development Project
765-795 Palomar Street
(10/17/07)

The City Council of the City of Chula Vista hereby approves Tentative Map PCS-07-01 subject to the following conditions.

Prior to approval of the final map, unless otherwise indicated, Applicant shall comply with the following:

GENERAL CONDITIONS

1. This project approval is contingent upon adoption of the ordinance approving Rezone PCZ-07-01 and Precise Plan Modifying Standards.
2. Applicant shall pay all applicable fees, including any unpaid balances of permit processing fees for the deposit account DQ-1168.
3. The Applicant shall comply with all applicable sections of the Chula Vista Municipal Code (CVMC). Preparation of the Final Map and all plans shall be in accordance with the provisions of the Subdivision Map Act and the city of Chula Vista Subdivision Ordinance, Subdivision Manual, and City policies. Underground all utilities within the subdivision in accordance with CVMC requirements.
4. The Applicant and Property Owner shall and do agree to indemnify, protect, defend and hold harmless the City Council, Redevelopment Agency and the City, their members, officers, employees and representatives, from and against any and all liabilities, losses, damages, demands, claims and costs, including court costs and attorney's fees (collectively, liabilities) incurred by the City Council, Redevelopment Agency and/or the City arising, directly or indirectly, from (a) The City Council/Redevelopment Agency's approval of this Tentative Map, (b) The City Council/Redevelopment Agency's approval or issuance of any other permit or action, whether discretionary or non-discretionary, in connection with the use contemplated herein, and Applicant and Property Owner shall acknowledge their agreement to this provision by executing a copy of this document where indicated below. Applicant's/Owner's compliance with this provision is an express condition of this Tentative Map and this provision shall be binding on any and all of Applicant's/Owner's successors and assigns.
5. The Applicant and Property Owner shall execute this document by signing the lines provided below, said execution indicating that the Applicant and Property Owner have each read, understood, and agreed to the conditions contained in the Tentative Map.

6. If any of the foregoing conditions fail to occur, or if they are, by their terms, to be implemented and maintained over time, if any of such conditions fail to be so implemented and maintained according to their terms, the City Council and Redevelopment Agency shall have the right to revoke or modify all approvals herein granted, deny, or further condition issuance of all future building permits, deny, revoke, or further condition all certificates of occupancy issued under the authority of approvals herein granted, institute and prosecute litigation to compel their compliance with said conditions or seek damages for their violation. Failure to satisfy the conditions of this Tentative Map may also result in the imposition of civil or criminal penalties.

CONDITIONS RELATED TO THE GRADING AND DRAINAGE

7. All onsite drainage and sewer facilities shall be private.
8. Applicant shall submit a detailed grading plan in accordance with the Chula Vista Grading Ordinance before issuance of first building permit. Details such as type, cross sections, and profiles of any proposed retaining walls, special drainage structures, and structural drainage BMPs shall be shown on the grading plans for City's review and approval.
9. Applicant shall submit a drainage study prepared by a registered civil engineer to be reviewed and approved by the City Engineer prior to issuance of a grading permit or other development permit. Design of the drainage facilities shall consider existing onsite and offsite drainage patterns. The drainage study shall calculate the pre-developed and the post-developed flows and show how downstream properties and storm drain facilities are impacted. If the post-development flows exceed the pre-development flows, the study shall include calculations sizing proposed detention system(s). The extent of the study shall be as approved by the City Engineer.
10. Applicant shall submit a detailed geotechnical report prepared, signed and stamped by both a registered civil engineer and certified engineering geologist prior to approval of grading plans and issuance of a grading permit.
11. Applicant shall fulfill the landscaping requirements as set forth by the City Landscape Architect prior to approval of grading plans.
12. Applicant shall provide a security in the amounts of: 25% of estimated earthwork costs; 100% of estimated costs of appurtenant structures, as determined by the approved engineer's estimate; 100% of landscaping and irrigation facilities; and 100% of landscape maintenance for a period stated on the Grading Permit, prior to approval of grading plans and issuance of a grading permit.

CONDITIONS RELATED TO WATER QUALITY AND NPDES

13. Applicant shall comply with the Regional Water Quality Control Board Order R9-2007-0001 and the Chula Vista Standard Urban Storm Water Mitigation Plan (SUSMP) both as amended from time to time.
14. Applicant shall submit and obtain approval of a water quality technical report for the project prior to the issuance of a grading permit.
15. Applicant shall implement, prior to the final map NPDES best management practices ("BMPs") to reduce the amount of pollutants entering the city's storm water conveyance system, including but not limited to:
 - a. Installing and using efficient irrigation systems and landscape design; more specifically:
 - i. Employ rain shutoff devices to prevent irrigation after precipitation.
 - ii. Adjust irrigation systems to each landscape area's specific water requirements
 - iii. Using flow reducers or shutoff valves triggered by a pressure drop to control water loss in the event of broken sprinkler heads or lines.
 - iv. Employing other comparable, equally effective, methods to reduce irrigation water runoff.
 - b. Employing integrated pest management principles. More specifically, eliminate and/or reduce the need for pesticide use by implementing Integrated Pest Management (IPM), including: (1) planting pest-resistant or well-adapted plant varieties such as native plants; (2) discouraging pests in the landscaping design; (3) distributing IPM educational materials to homeowners/residents. Minimally, educational materials must address the following topics: keeping pests out of buildings and landscaping using barriers, screens, and caulking; physical pest elimination techniques, such as, weeding, squashing, trapping, washing, or pruning out pests; relying on natural enemies to eat pests; and, proper use of pesticides as a last line of defense.
 - c. Applicant shall Indemnify, and hold harmless the City, its elected and appointed officers and employees, from and against all fines, costs, and expenses arising out of non-compliance with the requirements of the NPDES regulations, in connection with the execution of any construction and/or grading work for the Project, whether the non-compliance results from any action by the Applicant, any agent or employee, subcontractors, or others. The applicant's indemnification shall include any and all costs, expenses, attorney's fees and liability incurred by

the City.

- d. Applicant shall agree to not protest the formation of a facilities benefit district or any other funding mechanism approved by the City to finance the operation, maintenance, inspection, and monitoring of NPDES facilities. This agreement to not protest shall not be deemed a waiver of the right to challenge the amount of any assessment, which may be imposed due to the addition of these improvements and shall not interfere with the right of any person to vote in a secret ballot election.
 - e. Applicant shall agree to perpetually maintain storm drain BMPs, as recommended in the approved WQTR for the project.
16. Applicant obligation may be reassigned to a Homeowner's Association or other appropriate Maintenance District subject to the approval of the City Engineer.

PUBLIC IMPROVEMENTS

17. Applicant shall provide an improvement plan showing all existing and proposed public improvements such as driveways, curb, gutter, sidewalk for City's review and approval, prior to issuance of the first building permit. Proposed driveways shall be constructed per ADA requirements and per City of Chula Vista Design Standards. Developer is responsible for replacing any broken sidewalk along the project frontage. Developer shall secure any required improvements prior to final map approval.
18. Applicant shall provide the engineer's estimates for construction of public improvements, per Section 7-100 of the City of Chula Vista Subdivision Manual, before approval of the improvement plans.
19. Applicant shall provide bonds prior to the final map, for the faithful performance and for labor and material that will satisfy the provisions of Article (18.16.230) of the City of Chula Vista Municipal Code (CVMC).
20. Access to all existing or proposed public sewer manholes shall be provided pursuant to the Subdivision Manual.
21. Paved access to existing and proposed public sewer systems with manholes shall be designed for a minimum Traffic Index (TI) equal to 5.
22. Applicant shall secure in accordance with Section 18.16.220 of the CVMC, the construction and/or construct all sewer improvements required for the project, including but not limited to the on-site sewer system, the off-site upsizing of the 12" sewer line within Industrial Boulevard to a 15" line from Manhole 5106 to 5045, prior to the first final map. Said improvements shall include, but not be limited to trenching, sewer main and laterals, manholes to the satisfaction of the City Engineer. Developer may process a

reimbursement agreement for the over-sizing of the sewer facility pursuant to Muni Code 15.50.

23. Prior to the approval of the first Final Map, the Applicant will be required to ensure to the satisfaction of the City Engineer that adequate capacity for its project will be available on or before the date that a unit or units are completed. Building permits will not be issued if the City Engineer has determined that adequate sewer capacity does not exist. All development must comply with the CVMC, specifically Sections 19.09.010 (A) 6 and 13.14.030.
24. Pursuant to mitigation measure #13, the Applicant shall submit plans and construct to the satisfaction of the City Engineer the partial median at the intersection of Frontage Road/Walnut Avenue & Palomar Street, prior to the issuance of the first building permit.

PRIVATE OR ON-SITE IMPROVEMENTS

25. Prior to the issuance of first building permit, the applicant shall complete the formation of a Homeowners Association to maintain on-site private improvements, including, but not limited to: all walls, fences, lighting structures, paths, recreational amenities and structures, sewage facilities, drainage structures, including BMPs, parking areas, driveways, and landscaping. Prior to the final map, applicant shall submit for City's approval the Codes, Covenants & Restrictions (CC&Rs). The CC&Rs shall authorize the City to enforce the terms and conditions of the CC&Rs in the same manner as any owner of the project.

CC&R'S

26. Applicant shall submit CC&R's as approved by the City Attorney to the City Engineer and Director of Planning and Building for approval prior to the first final map. Said CC&R's shall include the following:
 - Indemnification of City for private sewer spillage.
 - Listing of maintained private facilities.
 - The City's right but not the obligation to enforce CC&R's.
 - Provision that no private facilities shall be requested to become public unless all homeowners and 100% of the first mortgage obligee have signed a written petition.
 - Maintenance of all walls, fences, lighting structures, paths, recreational amenities and structures, sewage facilities, drainage structures, including BMPs, parking areas, driveways, and landscaping.
 - Compliance with CVMC Section 8.24.100, Placement of containers for collection (trash).
 - Implement education and enforcement program to prevent the discharge of pollutants from all on-site sources to the storm water conveyance system.

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- Compliance with the approved solid waste plan.

Said CC&R's shall be consistent with Chapter 18.44 of the Subdivision Ordinance, and shall be recorded concurrently with the final map.

27. Applicant shall submit with the first final map homeowners association (HOA) budget for review and approval by the City Engineer for the maintenance of private streets, storm drains, including BMPs, sewage systems, and the corresponding streetscape and landscape improvements adjacent to the property being built through the Palomar Gateway Beautification Improvements. Said budget shall include the following maintenance activities:

- Streets must be sealed every 7 years and overlaid every 20 years.
- Sewers must be cleaned once a year with a contingency for emergencies.
- Red curbs / striping must be painted once every three years.
- Drainage BMPs shall be maintained per the recommendations made in the approved WQTR for the project.

The City of Chula Vista shall be granted the right, not the obligation, at its discretion, to enforce the terms and conditions of the Declaration, in order to ensure the maintenance of all streets, sewers, common areas, driveways, and drainage systems, including BMP's, which are private. All the individual condominium unit owners of the project shall be jointly and severally liable for any costs or expenses with a right of contribution for maintenance and repair of all private driveways.

EASEMENTS

28. Streets within the development shall be private. Reciprocal accesses easements or a covenant of easements shall be provided to allow access to both parcels from either the east or the west prior to the final map.
29. Applicant shall grant an easement for the purposes of maintaining any proposed public sewer or drainage lines to the City. This easement shall be shown on the final map.
30. Applicant shall grant an easement along the southerly driveway to the development to the south (Marcella Villas) for emergency access purposes. It shall be the responsibility of Marcella Villas to install and maintain the emergency access gate.
31. Prior to approval of the Final Map, Applicant shall grant an easement along the southerly driveway to the applicant and/or property owner of Phase 2/Lot 2 for all utilities.
32. Prior to approval of the Final Map, Applicant shall grant an easement to the City of Chula Vista at the northwest corner of Parcel 1 for the construction of an entry monument by the City of Chula Vista.

33. All existing easements and irrevocable offers of dedication shall be shown on the final map. A title report dated within 60 days of submittal of the final map shall be submitted together with backing documents for all existing public utility easements and offers of dedication. Developer shall submit evidence of noticing to all existing public utility easement holders within the project boundaries as required by the Section 66436 of the Subdivision Map Act.

RIGHT-OF-WAY / Streets

34. Applicant shall dedicate right-of-way as shown on the Tentative Map for the purposes of the Palomar Street and Industrial Boulevard improvements. This dedication shall be shown on the final map.
35. Applicant shall secure or construct, prior to the final map, in accordance with Section 18.16.220 of the Municipal Code, the construction and/or construct full street improvements for all on-site and off-site streets improvements including but not limited to Industrial (Palomar Street to the southerly project boundary), Palomar Street (Frontage Road to Industrial Blvd.) and Frontage Road (Palomar Street to the southerly project boundary). Said improvements shall include, but not be limited to, asphalt concrete pavement, base, concrete curb, gutter and sidewalk, sewer, reclaimed water and water utilities, drainage facilities, street lights, traffic signals, signs, landscaping, medians, striping, signage, irrigation, fencing and fire hydrants.
36. Applicant shall pay for or enter into an agreement to pay for, any required construction change orders and design alterations, prior to issuance of the first building permit or at the discretion of the City Engineer, in coordination with the Palomar Gateway Beautification Improvements, including but not limited to the driveway and median at Industrial Boulevard. Street light locations shall be subject to the approval of the City Engineer.

AGREEMENTS

37. Applicant shall enter into an agreement prior to the final map to include the following additional provisions:
- Agree to defend, indemnify and hold harmless the City and its agents, officers, and employees, from any claim, action or proceeding against the City, or its agents, officers or employees to attack, set aside, void or annul any approval by the City, including approval by its Planning Commission, City Council or any approval by its agents, officers, or employees with regard to this subdivision pursuant to Section 66499.37 of the State Map Act provided the City promptly notifies the subdivider of any claim, action or proceeding and on the further condition that the City fully cooperates in the defense.

- Agree to hold the City harmless from any liability for erosion, siltation or increase flow of drainage resulting from this project.
- Agree to ensure that all franchised cable television companies ("Cable Company") are permitted equal opportunity to place conduit and provide cable television service to each lot within the subdivision. Restrict access to the conduit to only those franchised cable television companies who are, and remain in compliance with, all of the terms and conditions of the franchise and which are in further compliance with all other rules, regulations, ordinances and procedures regulating and affecting the operation of cable television companies as same may have been, or may from time to time be issued by the City of Chula Vista.

MISCELLANEOUS

38. Prior to the issuance of building permits, Applicant shall pay the following fees based on the final building plans submitted:
 - a) Sewer Connection and Capacities fees
 - b) Development Impact Fees
 - c) Traffic Signal Fees
39. Prior to the approval of any final map, Applicant shall pay costs associated with the initial two years of maintenance of the corresponding streetscape and landscape improvements, adjacent to the subject property, which are being built through the Palomar Gateway Beautification Improvements.
40. Prior to the approval of any final map, the Applicant shall pay all applicable Western Transportation Development Impact Fees (WTDIF) at the rates in effect at the time of approval of the final map.
41. Applicant shall tie the boundary of the subdivision to the California System-Zone VI (NAD '83).
42. Applicant shall submit copies of the Final Map, grading plans, and improvement plans in a digital format such as (DXF) graphic file prior to approval of the Final Map. Provide computer aided Design (CAD) copy of the Final Map based on accurate coordinate geometry calculations and submit the information in accordance with the City Guidelines for Digital Submittal in duplicate on 3 ½ HD floppy disk prior to the approval of the Final Map.
43. Applicant shall submit a conformed copy of a recorded tax certificate covering the property prior to approval of the Final Map.

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PARK AND DEVELOPMENT (GENERAL SERVICES)

44. Prior to the approval of the Final Map, the Applicant shall pay all applicable Parkland Acquisition and Development Fees (PAD fees) at the rates in effect at the time of approval of the map or building permit in accordance with C.V.M.C. Chapter 17.10.

WATER CONSERVATION PLAN/AIR QUALITY IMPROVEMENT PLAN

45. Applicant shall implement all conservation measures contained in the Bayvista Walk Water Conservation Plan (WCP) and Air Quality Improvement Plan (AQIP), during project implementation.
46. All water conservation measures contained in the Bayvista Walk WCP shall be identified on construction plans including hot water pipe insulation, pressure reducing valves, water efficient dishwashers, water efficient landscaping and evapotranspiration (ET) controllers.
47. All air quality measures contained in the Bayvista Walk AQIP including the specific building efficiency program to be used shall be identified on construction plans.
48. During project implementation, Applicant shall implement the final AQIP measures as approved by the City Council, and as may be amended from time to time, and to comply and remain in compliance with the AQIP.
49. Applicant acknowledges that the City Council may, from time-to-time, modify air quality improvement and energy conservation measures as technologies and/or programs change or become available. The Developer shall modify the AQIP to incorporate those new measures upon request of the City, which are in effect at the time, prior to or concurrent with each map approval within the Project. The new measures shall apply to development within all future map areas, but shall not be retroactive to those areas, which receive final map approval prior to effect of the subject new measures. The Developer acknowledges and agrees that the City has adopted the City of Chula Vista AQIP Guidelines as approved per Resolution No. 2003-260 and that such guidelines as approved and as may be amended from time-to-time shall be implemented.
50. Applicant shall implement the final WCP measures as approved by the City Council, and as may be amended from time to time, and to comply and remain in compliance with the WCP.
51. Applicant acknowledges that the City Council may, from time-to-time, modify water conservation measures as technologies and/or programs change or become available. The Developer shall modify the WCP to incorporate those new measures upon request of the City, which are in effect at the time, prior to or concurrent with each map approval within the Project. The new measures shall apply to development within all future map areas,

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but shall not be retroactive to those areas, which receive final map approval prior to effect of the subject new measures. The Developer acknowledges and agrees that the City has adopted the City of Chula Vista WCP Guidelines as approved per Resolution No. 2003-234 and that such guidelines as approved and as may be amended from time-to-time shall be implemented.

ENVIRONMENTAL MITIGATION CONDITION

52. The applicant shall implement to the satisfaction of the Planning and Building Department and the City Engineering Division the mitigation measures identified in the Bayvista Walk Mitigated Negative Declaration (IS-05-012) and Mitigation Monitoring and Reporting Program. Applicant shall agree to remain in compliance with said Mitigations Measures.

AFFORDABLE HOUSING REGULATORY AGREEMENT

53. In lieu of building affordable housing [pursuant to the Housing Element Balanced Communities ("Inclusionary") Policy], the Applicant shall, prior to the issuance of the first building permit, convey Lot 2, free and clear of all encumbrances other than those approved by the City Attorney, to the Redevelopment Agency of the City of Chula Vista. Applicant shall provide with the final map; a Title Report for Lot 2, a Phase I Hazardous waste Report for Lot 2 and Title Insurance equal to the value of Lot 2.

FIRE CONDITIONS

54. Applicant shall obtain the fire marshal's approval for a lighted directory and other emergency measures prior to the first final map for the project.

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CVRC RESOLUTION NO. 2007 _____

RESOLUTION OF THE CHULA VISTA REDEVELOPMENT CORPORATION RECOMMENDING THAT THE CITY COUNCIL (1) ADOPT MITIGATED NEGATIVE DECLARATION (IS-05-012); (2) ADOPT REZONE PCZ-07-01 FOR A 4.89-ACRE PORTION OF THE SITE FROM COMMERCIAL THOROUGHFARE WITH PRECISE PLAN (CT-P) TO CENTRAL COMMERCIAL WITH PRECISE PLAN (CC-P) ALONG WITH THE APPROVAL OF PRECISE PLAN MODIFYING STANDARDS; (3) APPROVE CONDITIONAL USE PERMIT (SUPS-07-01); (4) APPROVE DESIGN REVIEW PERMIT (DRC-05-39); AND (5) APPROVE TENTATIVE MAP (PCS-07-01) TO ALLOW THE CONSTRUCTION OF 154 MULTI-FAMILY UNITS AND 5,000 TO 10,000 SQUARE FEET OF COMMERCIAL SPACE ON THE SITE AT 765-795 PALOMAR STREET

WHEREAS, the parcel, which is the subject matter of this resolution, is represented in Exhibit A attached hereto and incorporated herein by this reference, and for the purpose of general description is located at 765-795 Palomar Street, Chula Vista; and

WHEREAS, duly verified applications for a Rezone (PCZ-07-01) with a Precise Plan Standard was received on September 8, 2006, a Design Review Permit (DRC-05-39) on April 22, 2005, a Conditional Use Permit (SUPS-07-01) on September 8, 2006, and a Tentative Subdivision Map (PCS-07-01) on September 8, 2006 were filed with the City of Chula Vista on behalf of the applicant requesting a rezone, precise plan, conditional use permit, design review and tentative map to enable the development of a 154-unit mixed use residential project with 5-10,000 square feet of commercial retail space located at 765-795 Palomar Street ("Project"); and

WHEREAS, the Environmental Review Coordinator determined that, although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because mitigation measures have been incorporated in the project and agreed to by the project proponent; and

WHEREAS, on October 24, 2007, a Planning Commission hearing time and place was set for said Rezone (with Precise Plan Standards) and notice of said hearing, together with its purpose, was given by its publication in a newspaper of general circulation in the City, and its mailing to property owners and residents within 500 feet of the exterior boundaries of the property, at least ten (10) days prior to the hearing; and

WHEREAS, a hearing at the time and place as advertised, namely October 24, 2007, at 6:00 p.m. at the John Lippitt Public Works Center, 1800 Maxwell Road was held before the Planning Commission and said hearing was thereafter closed; and

WHEREAS, the Planning Commission reviewed and considered the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program, IS-05-012; and

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WHEREAS, the Planning Commission after considering all evidence and testimony presented recommended by a vote of x-x that the City of Chula Vista City Council Approve Rezone (PCZ-07-01) a 4.89 acre site from CCT (Commercial Thoroughfare Precise Plan) to CCP (Central Commercial Precise Plan) zone along with Precise Plan Modifying Standards; and

WHEREAS, a hearing time and place was set by the Chula Vista Redevelopment Corporation for consideration of the Project and notice of said hearing, together with its purpose, was given by its publication in a newspaper of general circulation in the City, and its mailing to property owners and residents within 500 feet of the exterior boundaries of the property, at least ten (10) days prior to the hearing; and

WHEREAS, the Chula Vista Redevelopment Corporation (CVRC) held a duly noticed public hearing to consider said application at the time and place as advertised, namely October 25, 2007 at 6:00 p.m. in the Council Chambers, 276 Fourth Avenue, before the Chula Vista Redevelopment Corporation and said hearing was thereafter closed.

NOW, THEREFORE, BE IT RESOLVED that the Chula Vista Redevelopment Corporation does hereby find, determine, and resolve based upon all the evidence provided herein and at the public hearing, as follows:

A. ENVIRONMENTAL DETERMINATION

The Environmental Review Coordinator has reviewed the proposed project for compliance with the California Environmental Quality Act and has conducted an Initial Study, IS-05-012, in accordance with the California Environmental Quality Act. Based upon results of the Initial Study, the Environmental Review Coordinator determined that the project could result in effects on the environment. However, revisions to the project made by or agreed to by the applicant would avoid the effects or mitigate the effects to a point where clearly no significant effects would occur; therefore, the Environmental Review Coordinator prepared a Mitigated Negative Declaration, IS-05-012.

The Chula Vista Redevelopment Corporation, in the exercise of its independent judgment, and based on the information set forth in the record of its proceedings, finds as follows: the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program (IS-05-012), on file in the Planning and Building Department, has been prepared in accordance with the requirements of the California Environmental Quality Act (CEQA) and the Environmental Review Procedures of the City of Chula Vista; the Project's environmental impacts will be mitigated by adoption of the Mitigation Measures described in the Mitigated Negative Declaration, and contained in the Mitigation Monitoring and Reporting Program, and the Mitigation Monitoring and Reporting Program is designed to ensure that the Project complies with the Mitigation Monitoring Program.

B. REZONE

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1. The CVRC does hereby recommend approval of the rezone (PCZ-07-01) from Commercial Thoroughfare with Precise Plan (CT-P) to Central Commercial with Precise Plan (CC-P) based upon the following findings:

a. Public necessity, convenience and the general welfare and good zoning practices support the amendment to the Municipal Code.

The proposed CCP zone would provide an implementing zone for the existing Transit Focus Area (TFA) designation of the City's 2005 General Plan, and will contribute to the public convenience and general welfare by further assisting the City's efforts to satisfy the goals and objectives of the General Plan Land Use and Transportation (LUT) Policy 43.4, 43.5 and 43.6 for this area. The CC zone is the only zoning district currently available that allows establishment of mixed use high-density residential development standards in a manner that complies with the City's General Plan and Zoning Ordinance.

b. The rezoning of the property will allow the project to further the goals and objectives of the Amended and Restated Redevelopment Plan (2004) regarding the removal of blight and physical improvement to this area of the redevelopment project area.

2. The CVRC further recommends approval of the City of Chula Vista Zoning Map established by Section 19.18.010 of the Chula Vista Municipal Code to rezone the site as depicted in Exhibit B from CT-P to CC-P (Central Commercial Precise Plan).

C. PRECISE PLAN FINDINGS

The CVRC does hereby recommend approval of the establishment of Precise Plan Modifying Standards, based upon the following findings:

1. *That such plan will not, under the circumstances of the particular case, be detrimental to the health, safety or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity.*

The proposed project will contribute to the public convenience and general welfare by assisting the City's efforts to satisfy the goals and objectives of the General Plan Land Use and Transportation (LUT) Policy 43.4, 43.5, 43.6, 43.11 and 43.12 for this area regarding the provision of mixed use higher density residential development in a pedestrian oriented environment, and the goals and objectives of the Merged Chula Vista Redevelopment Project Amended and Restated Redevelopment Plan (2004) regarding the removal of blight and the provision of physical improvement to this area of the redevelopment project area. The proposed CC zone and associated Precise Plan Modifying Standards would allow a project to be developed that is consistent with the existing Transit Focus Area (TFA) designation of the City's 2005 General Plan and allows the orderly growth of this area of the city.

The proposed Precise Plan Modifying Standards will not have a negative impact on the surrounding neighborhood because the proposed standards allow

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the applicant to design a Project that is more compatible with higher density residential and transit-oriented mixed-use development planned for the area. The surrounding area includes commercial uses, a transit station, and medium to high residential uses. The proposed modified standards will allow the flexibility in establishing new development standards for building setbacks and open space regulations that will permit construction of higher density multi family and neighborhood serving commercial uses which is more appropriate for the area, as it transitions from existing multi and single-family development to transit-oriented high density residential and mixed use type development.

The proposed Precise Plan Modifying Standards related to open space and building setbacks are not detrimental to the health, safety or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity. The reduction in open space and front building setback allow the construction of a project with an urban character and pedestrian orientation, as mandated by the Transit Focus Area designation of the City's 2005 General Plan. The proposed building setback along Palomar (0.5 to 6 feet) is intentionally reduced to create a more urban edge between the proposed building and the sidewalk and Palomar Street. While the proposed setback would deviate from the Zoning Ordinance, the reduction in the setback would afford the project a more urban and pedestrian-oriented character by being closer to the sidewalk, as compared with a suburban type of development with larger front setbacks. The Precise Plan Modifying Standards would also enhance access to the Palomar Trolley Station with thirty two (32) of the units closer to and accessing directly onto Palomar Street and the remaining units provide clear pedestrian access and connections through the site to the trolley station. Sidewalks along Palomar Street would be widened for a total walkway width of 6.5 feet and separated from traffic along Palomar Street by a 5 foot wide landscaped area (for a total 11.5 feet of parkway) to further promote the pedestrian orientation and convenience of walking to nearby commercial and transit uses, and with the potential of improving the health and safety of persons residing in the area.

Along Frontage Road, the required exterior side yard setback of the CC zone is 25 feet. The project's exterior side yard setback is proposed to vary from 15 feet to 50 feet. A reduced side yard setback is only proposed at the corner of Palomar Street and Frontage Road and then widens up to 50 feet south along Frontage Road. The modified standard at the corner allows the building to be more prominent at this entryway and makes more of a gateway statement (in keeping with the goals of the General Plan) than would otherwise be possible using the more suburban standard of 25 feet.

The proposed project will enhance the livability of this area of Chula Vista through the creation and maintenance of a mixed-use project that will help promote the City as a stable and economically and socially diverse community.

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2. *That such plan satisfies the principle for the application of the P modifying district as set forth in CVMC 19.56.041.*

The Precise Plan Modifying District ("P" modifier) has already been established on the site under the existing Commercial Thoroughfare zone (CT-P zone) and will continue to be effective under the proposed Central Commercial zone (CC-P). The purpose of the Precise Plan Modifying District is to allow diversification in the spatial relationship of land uses, density, buildings, structures, landscaping and open spaces, as well as design review of architecture and signs through the adoption of specific conditions of approval for development of property in the city. Within the boundaries of the "P" modifying district, the location, height, size and setbacks of buildings or structures, open spaces, signs and densities indicated on the precise plan shall take *precedence* over the otherwise applicable regulations of the underlying zone. Pursuant to CVMC 19.56.041, the "P" modifying district may be applied to areas within the city when one or more circumstances are evident including:

"The subject property, or the neighborhood or area in which the property is located, is unique by virtue of topography, geological characteristics, access, configuration, traffic circulation or some social or historic situation requiring special handling of the development on a precise plan basis."

The Project proposes to utilize the existing "P" modifier to establish building setbacks and open space standards that represent a modified standard from the Zoning Code requirements. The proposed precise plan modifying standards are necessary to implement an urban pedestrian-oriented project, as called for by the 2005 General Plan and provide the flexibility to allow construction of the Project. The site is unique in the sense that it is close to the Palomar Trolley Station and is part of the General Plan Transit Focus Area, which calls for the development of mixed-use, pedestrian oriented projects with an urban character. The site is surrounded by existing and proposed urban and pedestrian oriented uses such as commercial uses, a transit station, and medium to high-density residential uses.

The proposed reduction in the front building setback (0.5 to 6 feet) along Palomar Street will set the building close to the property line, establishing a closer relationship between the building and the sidewalk. Along Frontage Road, the exterior side yard setback of the CC zone is 25 feet. The project's exterior side yard setback is proposed to vary from 15 feet to 50 feet. A reduced side yard setback is only proposed at the corner of Palomar Street and Frontage Road and then widens up to 50 feet south along Frontage Road. The modified standard at the corner allows the building to be more prominent at this entryway and makes more of a gateway statement than would otherwise be possible using the more suburban standard of 25 feet. The proposed open space standard will also contribute to

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implement the project by providing unique open space elements that are urban in nature, such as rooftop patios, vertical landscape elements, and seating areas.

3. *That any exceptions granted which deviate from the underlying zoning requirements shall be warranted only when necessary to meet the purpose and application of the P precise plan modifying district.*

The reduction in the building setbacks and open space are warranted and necessary to accomplish an urban pedestrian oriented project, as mandated by the 2005 General Plan vision and policies. While the required front building setback of the CC zone is 25 feet, the building line map requires a five foot setback along Palomar Street. As noted in the Zoning Ordinance, the building line map takes precedence over the zoning district. The proposed front building setback of 0.5 to 6 feet creates the urban character and interface of the building with Palomar Street and sidewalk that is more pedestrian oriented as envisioned by the General Plan. Along Frontage Road, the required exterior side yard setback is 25 feet while the proposed setback would vary from 15 feet to 50 feet. A reduced side yard setback is only proposed at the corner of Palomar Street and Frontage Road and then widens up to 50 feet south along Frontage Road. The modified standard at the corner allows the building to be more prominent at this entryway and makes more of a gateway statement than would otherwise be possible using the more suburban standard of 25 feet.

The reduction in the open space is also warranted and necessary in that it allows the construction of the proposed site plan layout. Attempting to accommodate the required open space would reduce the area for buildings and associated improvement and potentially the density as called for in the 2005 General Plan. At the same time, the type and quality of the proposed open space offers a variety of open space elements with an urban character that do not require additional land, such as balconies, rooftop patios, as well as pedestrian corridors between building structures. These elements contribute to maintain the desired density of the project, while providing high quality urban recreation amenities.

Therefore, the requested modified standards under the Precise Plan are warranted in order to achieve the purpose of the Precise Plan Modifying District.

4. *That approval of this plan will conform to the general plan and the adopted policies of the City of Chula Vista.*

The Project has been designed and evaluated in accordance with the goals and objectives of the General Plan, including the Transit Focus Area. The Precise Plan will allow the Project to be consistent with the goals and objectives of the General Plan, and the Chula Vista Municipal Code. The General Plan Land Use and Transportation (LUT) Policy 43.4 and 43.5 for this area state that development projects should:

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"Provide a mix of uses with a focus on retail and some office uses along Palomar Street in the Mixed Use Transit Focus Area, with residential uses above and/or behind the retail and offices uses." and;

"Provide a mix of local-serving retail and office uses near the Palomar Trolley Station and at the Gateways into the Palomar Gateway District."

In order to implement the General Plan, the project proposes to rezone site from CT-P to the CC-P zone, which allows mixed-use projects through the issuance of a conditional use permit. For this area of the City, this is the only zoning district currently available to implement the 2005 General Plan mixed-use designation. In relation to residential density within the area, LUT Policy 43.6 of the General Plan states:

"In the Palomar Gateway District, residential densities within the Mixed Use Transit Focus Area designation are intended to have a district-wide gross density of 40 dwelling units per acre."

The project proposes 154 units on 4.89 acres, which results in a density of 32 dwelling units per acre. This density is consistent with the City's General Plan policy for the site and represents the maximum density permitted by the proposed CC zone. The proposed residential density would provide an urban, pedestrian-oriented project design that would complement the Palomar Trolley Station and be compatible with the surrounding land uses.

The General Plan provides further guidance on design and landscaping for the Palomar Gateway through LUT Policy 43.11 and 43.12, stating:

"..the improvement of Palomar Street as a gateway to the City."

"Provide for safe, effective, and aesthetic pedestrian crossings and improvements to Palomar Street and Industrial Boulevard."

The Precise Plan and the proposed Modifying Standards for the reduction in the building setbacks and open space conform to the General Plan and its policies. The reduction in the front building setback from the required 5 feet to the proposed 0.5 to 6 feet and side yard reduction from 25 to 15 to 50 feet will create a more urban character and will establish a closer relationship between the building and the sidewalk and street and increase access to the Palomar trolley station. While the required setbacks were intended in the past to create a suburban character, the reduced front and side yard setbacks create the urban and pedestrian orientation called for by the General Plan, particularly since the proposed project is designated as a Transit Focus Area.

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The reduction in open space also conforms to the policies of the General Plan. While the amount of open space provided is less than the required, the type and quality of the proposed open space is consistent with a mixed-use, high density and pedestrian-oriented project. The proposed open space and the elements that compose it, such as balconies, rooftops, urban landscape elements, conform to and create a more urban and pedestrian-oriented project. The proposed composition of the open space elements provide the project residents a high quality of recreational opportunities a more urban environment, which conforms with the vision and policies of the General Plan.

D. CONDITIONAL USE PERMIT

The CVRC does hereby recommend approval of the Conditional Use Permit, (SUPS-07-01) subject to the conditions listed in Exhibit C of this resolution, and based upon the following findings.

1. *That the proposed use at the particular location is necessary or desirable to provide a service or facility which will contribute to the general well being of the neighborhood or the community.*

The proposed project will enhance the livability of this area of Chula Vista through the creation and maintenance of a mixed-use project that will help promote the City as a stable and economically and socially diverse community. A primary objective of redevelopment is to use tax increment to address blighted conditions. The vacant property has been vacant for many years. The proposed project will eliminate this blight and make the surrounding area much safer for the existing residents, trolley station, and hotel.

2. *That such use will not, under the circumstances of the particular case, be detrimental to the health, safety or general welfare of persons residing or working in the vicinity, or injurious to property or improvements in the vicinity.*

The proposed mixed use project will contribute to the public convenience and general welfare by assisting the City's efforts to meet the goals and objectives of the General Plan Land Use and Transportation (LUT) Policies 43.4, 43.5, 43.6, 43.11 and 43.12 for this area regarding the provision of mixed use higher density residential development in a pedestrian oriented environment, and the goals and objectives of the Merged Redevelopment Project Amended and Restated Redevelopment Plan (2004) regarding the removal of blight and physical improvement to this area of the redevelopment project area. The proposed CC zone and associated Precise Plan Modifying Standards would allow a project to be developed that is consistent with the existing Transit Focus Area (TFA) designation of the City's 2005 General Plan and allows the orderly growth of this area of the city.

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The proposed mixed use project will not have a negative impact on the surrounding neighborhood because it will be more compatible with higher density residential and transit-oriented mixed-use development planned for the area. The surrounding area includes commercial uses, a transit station, and medium to high residential uses. The proposed higher density multi family and neighborhood serving commercial uses is more appropriate for the area, as it transitions from existing multi and single-family development to transit-oriented high density residential and mixed use type development.

The design of the project provides a more urban and pedestrian-oriented character by siting the buildings closer to the sidewalk, as compared with a suburban type of development with larger front setbacks. Access to the Palomar trolley station would also be enhanced with thirty two (32) of the units accessing directly onto Palomar Street and the remaining units with clear pedestrian access and connections through the site to the Palomar Trolley Station. Sidewalks along Palomar Street would be widened for a total walkway width of 6.5 feet and separated from traffic along Palomar Street by a 5 foot wide landscaped area (for a total 11.5 feet of parkway) to further promote a safe and convenient pedestrian environment which is easily accessible to nearby commercial and transit uses, and with the potential of improving the health and safety of persons residing in the area.

3. *That the proposed use will comply with the regulations and conditions specified in this code for such use.*

The project complies with all regulations of the CC zone as modified by precise plan standards adopted for the subject parcel based upon section 19.14.576 of the Chula Vista Municipal Code.

4. *That the granting of this conditional use will not adversely affect the General Plan of the City or the adopted plan of any government agency.*

The granting of the conditional use permit for the proposed project would not adversely affect the City's General Plan. This site is designated mixed-use residential and the project would provide a mixed-use development of residential and neighborhood serving commercial uses. The precise plan standards for the project site would create a more urban interface of the building with the street and sidewalk. This design promotes pedestrian activity and enhanced access to the trolley station.

E. CONFORMANCE WITH CITY DESIGN MANUAL

The Chula Vista Redevelopment Corporation does hereby find that the Project is in conformance with the City of Chula Vista Design Manual, Landscape Manual and the requirements of the Zoning Ordinance and hereby recommends that the City Council approve the Design Review Permit (DRC-05-39), subject to conditions of Exhibit C.

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F. SUBDIVISION MAP

The Chula Vista Redevelopment Corporation does hereby recommend that the City Council approve the Tentative Map (PCS 07-01), subject to conditions of Exhibit D and based upon the following findings.

A. Pursuant to Government Code Section 66473.5 of the Subdivision Map Act, the City Council finds that the Tentative Subdivision Map (PCS-07-01), as conditioned herein for Bay Vista Walk, is in conformance with the City's General Plan, based on the following:

The Project has been designed and evaluated in accordance with the goals and objectives of the General Plan, including the Transit Focus Area. The Rezone and Precise Plan will allow the Project to be consistent with the goals and objectives of the General Plan, and the Chula Vista Municipal Code. The General Plan Land Use and Transportation (LUT) Policy 43.4 and 43.5 for this area state that development projects should:

"Provide a mix of uses with a focus on retail and some office uses along Palomar Street in the Mixed Use Transit Focus Area, with residential uses above and/or behind the retail and offices uses." and;

"Provide a mix of local-serving retail and office uses near the Palomar Trolley Station and at the Gateways into the Palomar Gateway District."

In order to implement the General Plan, the project proposes to rezone the site from CT-P to the CC-P zone, which allows mixed-use projects through the issuance of a conditional use permit. For this area of the City, this is the only zoning district currently available to implement the 2005 General Plan mixed-use designation. In relation to residential density within the area, LUT Policy 43.6 of the General Plan states:

"In the Palomar Gateway District, residential densities within the Mixed Use Transit Focus Area designation are intended to have a district-wide gross density of 40 dwelling units per acre."

The General Plan provides further guidance on design and landscaping for the Palomar Gateway through LUT Policy 43.11 and 43.12, stating:

"...the improvement of Palomar Street as a gateway to the City."

"Provide for safe, effective, and aesthetic pedestrian crossings and improvements to Palomar Street and Industrial Boulevard."

The project proposes 154 units on 4.89 acres, which results in a density of 32 dwelling units per acre. This density is consistent with the City's General Plan policy for the site and represents the maximum density permitted by the proposed CC zone. The

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proposed residential density would provide an urban, pedestrian-oriented project design that would complement the Palomar Trolley Station and be compatible with the surrounding land uses.

B. Pursuant to Section 66412.3 of the Subdivision Map Act, the Council certifies that it has considered the effect of this proposal on the housing needs of the region and has balanced those needs against the public service needs of the residents of the City and the available fiscal and environmental resources.

C. The configuration, orientation and topography of the site partially allows for the optimum setting of lots for passive or natural heating and cooling opportunities as required by Government Code Section 66473.1.

D. The site is physically suited for mixed use and residential development because adequate level building sites can be provided and no sensitive biological resources exist on the site. The Project design is consistent with the requirements of the General Plan Land Use Element and the project conforms to all standards established by the City for such project. Additionally, the site is physically suited for the proposed density of development because all necessary public services are available to the project or will be available commensurate with need.

E. The conditions herein imposed on the grant of permit or other entitlement herein contained is approximately proportional both in nature and extend to the impact created by the proposed development.

BE IT FURTHER RESOLVED, that the Chula Vista Redevelopment Corporation, has made their recommendations, as herein contained, after considering all evidence and testimony presented at its public meeting and is hereby incorporated into the record.

BE IT FURTHER RESOLVED THAT a copy of this Resolution be transmitted to the City Council.

Presented by:

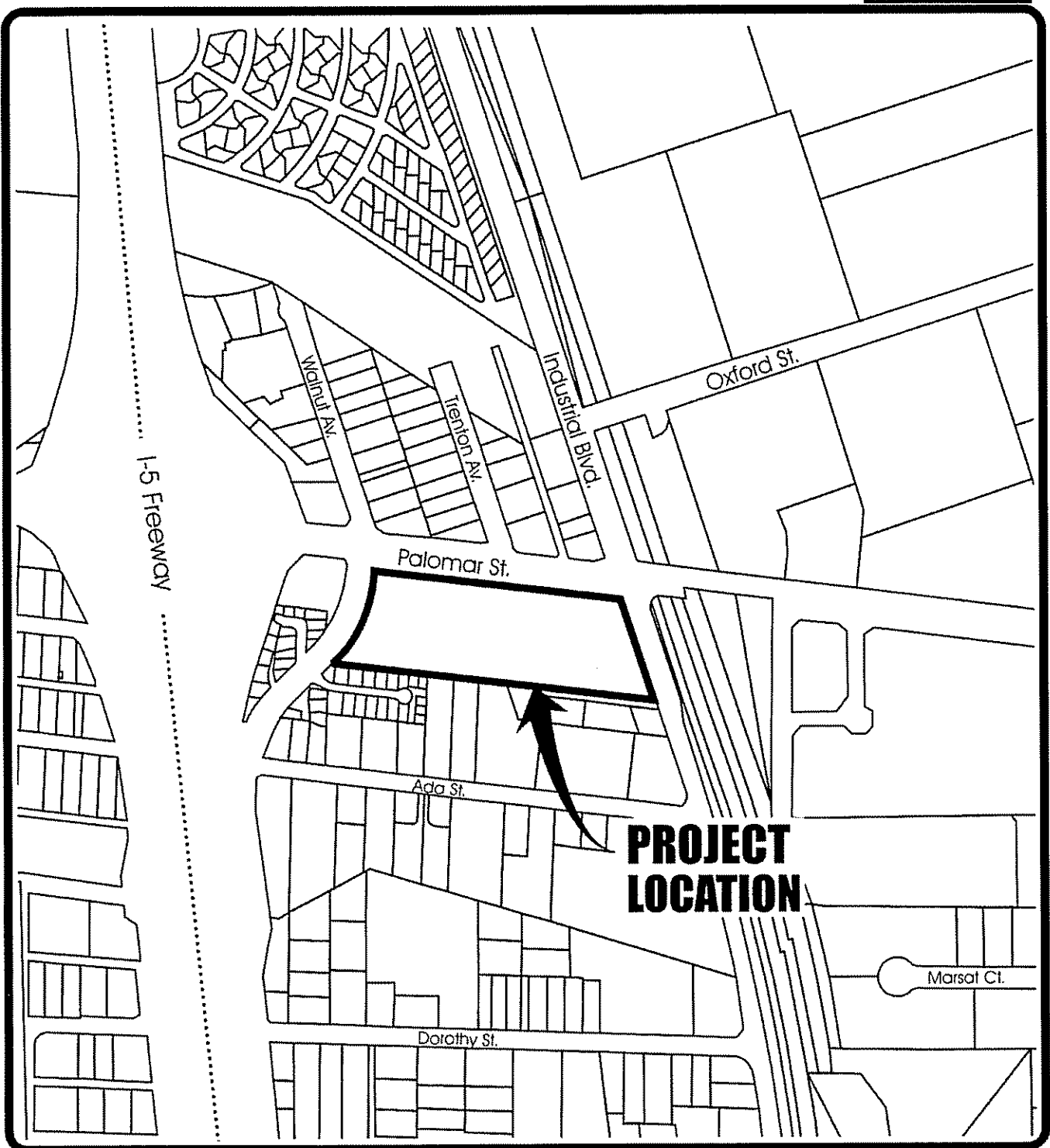
Approved as to form by



Ann Hix
Acting Community Development Director

Ann Moore
General Counsel

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LOCATOR

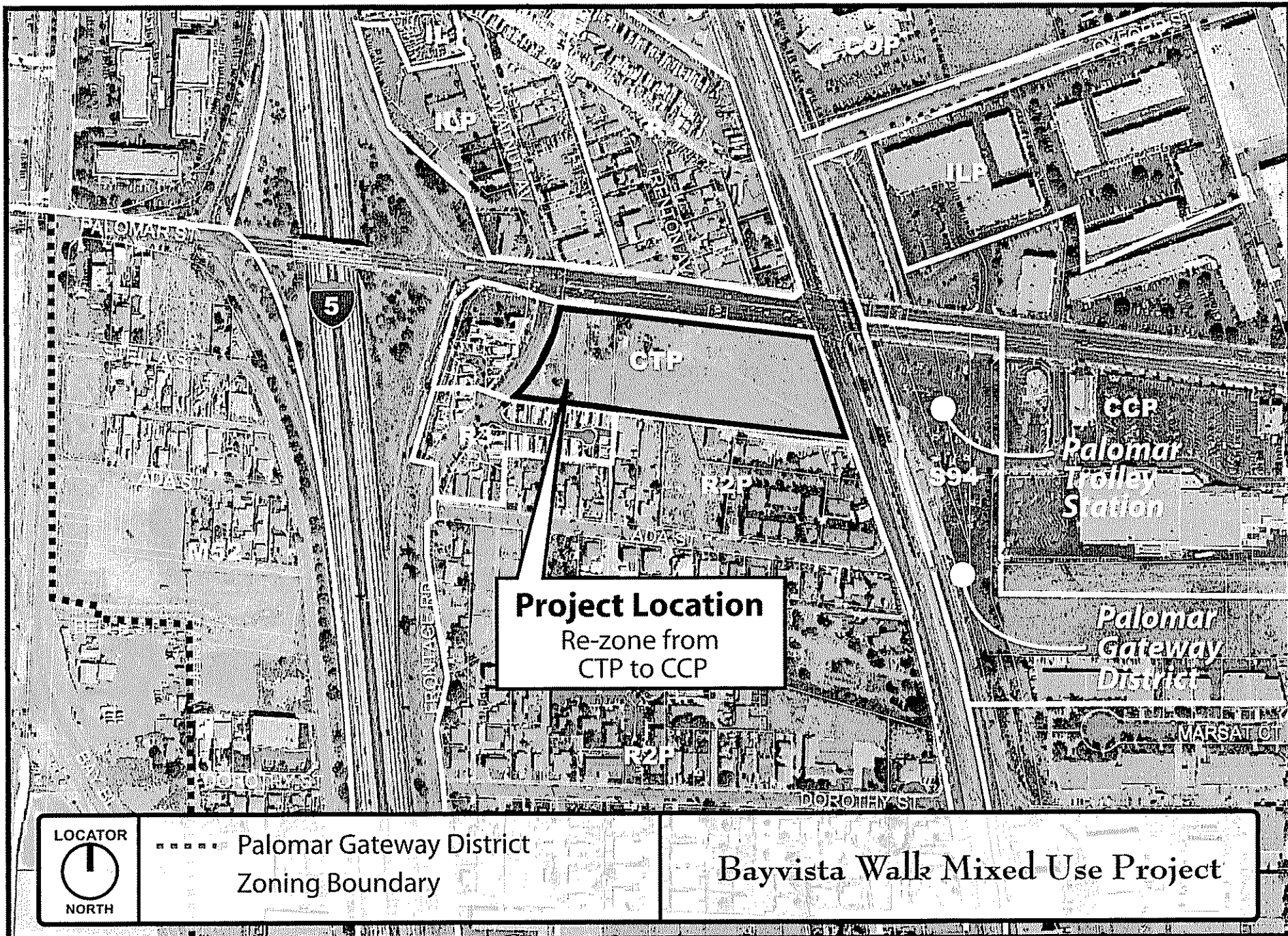


NORTH

City of Chula Vista
Bayvista Walk

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Project Location
Re-zone from
CTP to CCP

**Palomar
Trolley
Station**

**Palomar
Gateway
District**



----- Palomar Gateway District
Zoning Boundary

Bayvista Walk Mixed Use Project

WHEN RECORDED PLEASE MAIL TO:

CITY OF CHULA VISTA
City Clerk
276 Fourth Avenue
Chula Vista, CA 91910

THIS SPACE FOR RECORDER'S USE ONLY

**Design Review and Conditional Use Permit Conditions
Bayvista Walk Mixed-Use Development Project
765-795 Palomar Street**

The Chula Vista City Council does hereby approve Design Review Permit DRC-05-39 and Conditional Use Permit SUPS-07-01, subject to adoption of the Rezone PCZ-07-01, Precise Plan Modifying Standards and the following list of conditions:

COMMUNITY DEVELOPMENT DEPARTMENT

1. Lot 1 (Phase 1) of the subject property ("Project") shall be developed and maintained in conformance with the approved application, plans, and color and material board, except as modified herein.
2. Applicant of Lot 1 shall submit all exterior lighting plans, landscape and irrigation plans, solid waste and recycling plans for review and approval prior to the issuance of first building permit for the project, to the satisfaction of the City Engineer. Applicant shall provide sufficient lighting for parking along the southern driveway.
3. Applicant of Lot 1 shall implement all exterior lighting plans, landscape and irrigation plans, solid waste and recycling plans prior to the issuance of the first building permit for Phase 1 of the project, to the satisfaction of the City Engineer. Applicant shall maintain these improvements in accordance with said plans.
4. Prior to leasing any retail space, the Developer of Lot 2 shall submit written description for hours of operation for the tenants of the retail/commercial uses to the Director of Planning and Building for review and approval. The hours of operation shall be such that there is no conflict with the residential units.
5. The Project shall be constructed with rooftop patios at the two end-units of all the 9-plex buildings in order to provide additional private usable open space.
6. All utility meters and closets shall be painted to match the colors of the building elevations.
7. Identification signs shall be limited to those signs permitted by Section 19.60.400 and Section 19.60.410 of the Chula Vista Municipal Code (CVMC) and shall comply with the regulations stated therein.

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8. A graffiti resistant treatment shall be to all wall and building surfaces as shown on all approved building and wall plans. Said plans shall be submitted for City approval prior to issuance of the first building permits.
9. All ground mounted utility appurtenances, such as transformers, AC condensers, etc., shall be located out of public view and adequately screened using a combination of concrete or masonry walls, grade contouring (berming), and landscaping to the satisfaction of the City.

PLANNING AND BUILDING DEPARTMENT CONDITIONS

10. The Project shall comply with 2005 Energy Requirements, 2001 Handicap Accessibility Requirements, and SB1025. In addition, plans submitted on or after January 1, 2008 must comply with new international codes
11. The Project shall comply with applicable codes and requirements, including but not limited to 2001 CBC, CFC, CMC, CPC, ADA, and 2004 CEC requirements.
12. The Project shall comply with Table 5A, Table 5B, Section 503.4, Chapter 12, 10 and 9 of Building Code with regards to Area Limits, Height of the Building, Location of Property, Special Occupancy Requirements, Ventilation, Exits and Sprinklers.
13. The Project shall comply with Seismic Zone 4, wind speed 70 MPH exposure C, and other codes in effect at the time of issuance of any permit.
14. Applicant of Lot 1 shall submit a final landscape and irrigation plan (prepared by a licensed Landscape Architect) for the project prior to the issuance of first building permit for review of the City's Landscape Planner and City Arborist.
15. The applicant of Lot 1 and Lot 2 shall implement and comply with, to the satisfaction of the Planning and Building Department and the City Engineering Division, the mitigation measures identified in the Bayvista Walk Mitigated Negative Declaration (IS-05-012) and Mitigation Monitoring and Reporting Program.

ENGINEERING AND PUBLIC WORKS DEPARTMENT CONDITIONS

16. Any onsite sewer and storm drain system shall be private. All sewer laterals and storm drains shall be privately maintained from each building to the City maintained public facilities.
17. The applicant of Lot 1 shall complete the applicable Storm Water Compliance Forms and comply with the City of Chula Vista's Storm Water Management Standards Requirements Manual. These forms shall be submitted with the grading plans. All projects falling under the Priority Development Project Categories are required to comply with the Standard Urban Storm Water Mitigation Plans (SUSMP) and Numeric Sizing Criteria. Based on the Completion of the Storm Water Compliance Forms, the project may be required to submit a

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SWPPP and Water Quality Technical Report (WQTR) with the submittal of the grading plans. The following items shall be incorporated in the grading plans and related reports:

- a. Grading Plans: The Applicant of Lot 1 is required to implement Best Management Practices (BMPs) to prevent pollution of the storm water conveyance systems, both during and after construction. Permanent storm water requirements shall be incorporated into the project design, and shall be shown on the grading plans. Any construction and nonstructural BMPs requirements that cannot be shown graphically must be either noted or stapled on the plans.
 - b. SWPPP and WQTR: Development of the Project shall comply with all applicable regulations, established by the United States Environmental Protection Agency (USEPA) as set forth in National Pollutant Discharge Elimination System (NPDES) permit requirements for urban runoff and storm water discharge, and any regulations adopted by the City of Chula Vista pursuant to the NPDES regulations and requirements. Further, the applicant shall file a Notice of Intent (NOI) with the State Water Resource Control Board to obtain coverage under the NPDES General Permit for Storm Water Discharges Associated with Construction Activity and shall implement a Storm Water Pollution Prevention Plan (SWPPP) concurrent with the commencement of grading activities. The SWPPP shall include both construction and post-construction pollution prevention and pollution control measures, and shall identify funding mechanisms for the maintenance of post-construction control measures.
 - c. WQTR: The Applicant of Lot 1 is required to identify storm water pollutants that are potentially generated at the facility, and propose Best Management Practices (BMPs) that will be implemented to prevent such pollutants from entering the storm drainage systems. The WQTR will be required to demonstrate compliance with requirements of the National Pollutant Discharge Elimination System (NPDES) Construction and Municipal Permits, including Standard Urban Storm Water Mitigation Plans (SUSMP) and Numeric Sizing Criteria requirements. The WQTR shall be submitted with the Applicant of Lot 1's grading/improvement plans, in accordance with the City's Manual.
18. This Project shall comply with all requirements of State Water Resources Control Board (SWRCB) NPDES General Permit No. CAS000002, Waste Discharge Requirements for Discharges of Storm Water Runoff Associated with Construction Activity. In accordance with said Permit, a Storm Water Pollution Prevention Plan (SWPPP) and a Monitoring Program Plan shall be developed and implemented concurrent with the commencement of grading activities to the satisfaction of the City Engineer. The SWPPP shall specify both construction and post-construction structural and non-structural pollution prevention measures. The SWPPP shall provide for the operation and maintenance of post-construction pollution measures, including short-term and long-term funding sources and the party or parties that will be responsible for the implementation of said measures for approval of the City Engineer.

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A complete and accurate Notice-of-intent (NOI) must be filed with the SWRCB. A copy of the acknowledgement from the SWRCB that a NOI has been received for this Project shall be filed with the City of Chula Vista when received. Further, a copy of the completed NOI from the SWRCB showing the Permit Number for this project shall be filed with the City of Chula Vista when received. Project shall comply with the permit and SWRCB.

19. Pursuant to NPDES Municipal Permit, Order No. 2001-01, the proposed Project is considered a Priority Development Project and therefore subject to the requirements of the Standard Urban Storm Water Mitigation Plans (SUSMPs) and Numeric Sizing Criteria. The Applicant of Lot 1 is required to complete the applicable forms (see City of Chula Vista's Development and Redevelopment Storm Water Management Requirements Manual) and comply with the Manual's requirements.
20. A Water Quality Technical Report is required to identify potential pollutants generated at the site during the post-development phase of the project and identify/propose appropriate structural and non-structural Best Management Practices (BMP's) to minimize discharge of such pollutants to the maximum extent practicable and shall be submitted for city approval concurrent with Lot 1's grading plans.
21. A hydrology study shall be provided with the submittal of grading plans for the approval of the City. Such study shall, in particular, demonstrate compliance with Section F.1.b.(2)(j) of the NPDES Municipal Permit, Order No.2001-01, that requires the control of peak storm water discharge rates and velocities in order to maintain or reduce pre-development downstream erosion and protect stream habitat.
22. Applicant of Lot 1 shall maintain number of parking spaces, per approved site plan.

FIRE DEPARTMENT CONDITIONS

23. On-site fire hydrants (24' fire roadway access/turnarounds) shall be installed every 300 feet along with a full NFPA 13 commercial fire sprinkler system and full fire alarm monitoring system, prior to the issuance of first building permit. Sprinklered buildings shall have a fire control room and be supported by a fire department connection to be located by the Chula Vista Fire Department.
24. Applicant of Lot 1 shall provide a water study to determine if adequate pressure is available for the project and if a fire pump will be required, prior to issuance of the first building permit.
25. The Applicant of Lot 1 shall provide Fire Department standpipes. Refer to Table 1004-A of the CFC 2001, prior to issuance of the first building permit.
26. Buildings shall be addressed in accordance with the following criteria:

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- 0 - 50 ft. from the building to the face of the curb = 6-inches in height with a 1-inch stroke;
 - 51 – 150 ft. from the building to the face of curb = 10-inches in height with a 1 1/2-inch stroke;
 - 151 ft. from the building to the face of curb = 16-inches in height with a 2-inch stroke.
27. The Chula Vista Fire Department will require the following prior to delivery of combustible materials on any construction site:
- Water supply
 - Access
 - Street signs
28. This Project shall be protected throughout by an approved automatic fire sprinkler system (NFPA 13, 13R, 13D System).
29. This Project shall be protected throughout by an approved fire alarm system (automatic, manual, fire flow monitoring).
30. Applicant of Lot 1 shall cooperate with the Owner/Applicant of the property to the south in grading and constructing the fire access easement with a slope that is adequate for fire trucks.
31. Applicant of Lot 1 shall comply with the Fire Department condition to provide rollover sidewalk curbs at all corners of the internal driveways for fire truck overhang.

GENERAL SERVICES DEPARTMENT CONDITIONS

32. The Applicant of Lot 1 shall submit and comply thereafter, a Recycling and Solid Waste Management Plan to the Environmental Services Program Manager for review and approval as part of the permit process, prior to issuance of the first building permit. The Plan shall demonstrate those steps the Applicant will take to comply with Municipal Code, including but not limited to Sections 8.24, 8.25 and 19.58.340 and meet the State mandate to reduce or divert at least 50% of the waste generated by all residential, commercial and industrial developments (including demolition and construction phases).
33. The Applicant of Lot 1 shall contract with the City's franchise hauler throughout the construction and occupancy phases of the project.

POLICE DEPARTMENT CONDITIONS

34. All landscaping in the Tot lot area landscaping shall be maintained at heights of 2 feet maximum for shrubbery and 6 feet minimum for trees to maintain visibility from all views.

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SCHOOL DISTRICTS

35. Applicant shall pay all school fees required by the Chula Vista Elementary and High School Districts.
36. Applicant of Lot 1 shall provide a copy of an approved (stamped/signed) Tentative Map to the Chula Vista Elementary and High School District in order to comply with Office of Public School Construction eligibility audit.

SWEETWATER AUTHORITY

37. Applicant of Lot 1 shall comply with all the requirements from the Water Authority, pursuant to letter to City staff dated July 5, 2007.

MISCELLANEOUS CONDITIONS OF APPROVAL

38. Applicant and/or Property Owner of Phase 2/Lot 2 shall submit a Precise Plan and go through the Chula Vista Redevelopment Corporation design review process to ensure compliance with the following design parameters:
- Mixed-use development at General Plan level densities to reach a minimum of 32 du/ac for the combined project (Phase 1 & 2);
 - Significant architectural elements that continue to emphasize this site as a "Gateway" to Southwest Chula Vista;
 - Mixed-use component to meet all development standards and processes;
 - Neighborhood serving commercial component to be conveniently located in relation to the transit station and storefronts that promote pedestrian activity along Palomar Street and Industrial Boulevard;
 - Internal connection to Phase 1;
 - Continuous pedestrian access to transit; and
 - Integrated design elements with Phase 1.
39. Lot 2 shall require an amendment to this Conditional Use Permit in order to develop Lot 2 and if the uses for Lot 2 as permitted herein are expanded.
40. The Applicant of Lot 1 shall comply with all applicable federal, state, and local requirements. Any violation of applicable City ordinances, codes, standards, and policies, or of any condition of approval shall be grounds for revocation or modification of this Conditional Use Permit by the City of Chula Vista.
41. Violation of any terms or conditions set forth herein shall be grounds for revoking or denial of building permits.

42. This permit shall become void and ineffective for Lot 1 if not used or extended within one year from the effective date thereof, in accordance with Section 19.14.600 of the Municipal Code.
43. The Applicant/owner of Lot 1 shall submit CC&Rs of the City's approval that incorporate the requirements of the conditions herein. In any case if the Project is not in compliance with the CC&R's, this permit is subject to modification or revocation.
44. This permit shall be subject to any and all new, modified, or deleted conditions imposed after approval of this permit to protect the public from a specific condition dangerous to its health or safety or both due to the project, which condition(s) the City shall impose after advance written notice to the permittee and after the City has given the permittee the right to be heard with regard thereto. However, the City in exercising this reserved right/condition, may not impose a substantial expense or deprive permittee of a substantial revenue source which the permittee cannot, in the normal operation of the use permitted, be expected to economically recover.
45. The Property Owners for Lot 1 and Lot 2 shall and do hereby agree to indemnify, protect, defend, and hold harmless the City, its Council members, officers, employees, agents, and representatives from and against all liabilities, losses, damages, demands, claims, and costs, including court costs and attorney's fees (collectively, liabilities) incurred by the City arising directly or indirectly from a) City's approval and issuance of this permit, b) City's approval or issuance of any other permit or action, whether discretionary or non discretionary, in connection with the use contemplated herein, and without limitation, any and all liabilities arising from the operation of the facility. Compliance with this provision is an express condition of this permit and this provision shall be binding on any and all of the successors and assigns of Lot 1 and Lot 2.

EXECUTION AND RECORDATION OF RESOLUTION OF APPROVAL

The Property Owner of Lot 1 shall execute this document by signing lines provided, said execution indicating that the property owner and applicant have each read, understand and agree to the conditions contained herein. Upon execution, this document shall be recorded with the County Clerk of the County of San Diego, at the sole expense of the property owner and/or applicants, and a signed, stamped copy returned to the City Clerk with a copy to the Planning Department. Failure to return a signed and stamped copy of this recorded document within thirty days of recordation to the City Clerk shall indicate the property owner's/applicants' desire that the project, and the corresponding application for building permits and/or business license, be held in abeyance without approval. Said document also on file in the Clerk's Office as Document No. _____.

Property Owner Signature

Date

Applicant Signature

Date

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Tentative Map Conditions
Bayvista Walk Mixed-Use Development Project
765-795 Palomar Street
(10/17/07)

The City Council of the City of Chula Vista hereby approves Tentative Map PCS-07-01 subject to the following conditions.

Prior to approval of the final map, unless otherwise indicated, Applicant shall comply with the following:

GENERAL CONDITIONS

1. This project approval is contingent upon adoption of the ordinance approving Rezone PCZ-07-01 and Precise Plan Modifying Standards.
2. Applicant shall pay all applicable fees, including any unpaid balances of permit processing fees for the deposit account DQ-1168.
3. The Applicant shall comply with all applicable sections of the Chula Vista Municipal Code (CVMC). Preparation of the Final Map and all plans shall be in accordance with the provisions of the Subdivision Map Act and the city of Chula Vista Subdivision Ordinance, Subdivision Manual, and City policies. Underground all utilities within the subdivision in accordance with CVMC requirements.
4. The Applicant and Property Owner shall and do agree to indemnify, protect, defend and hold harmless the City Council, Redevelopment Agency and the City, their members, officers, employees and representatives, from and against any and all liabilities, losses, damages, demands, claims and costs, including court costs and attorney's fees (collectively, liabilities) incurred by the City Council, Redevelopment Agency and/or the City arising, directly or indirectly, from (a) The City Council/Redevelopment Agency's approval of this Tentative Map, (b) The City Council/Redevelopment Agency's approval or issuance of any other permit or action, whether discretionary or non-discretionary, in connection with the use contemplated herein, and Applicant and Property Owner shall acknowledge their agreement to this provision by executing a copy of this document where indicated below. Applicant's/Owner's compliance with this provision is an express condition of this Tentative Map and this provision shall be binding on any and all of Applicant's/Owner's successors and assigns.
5. The Applicant and Property Owner shall execute this document by signing the lines provided below, said execution indicating that the Applicant and Property Owner have each read, understood, and agreed to the conditions contained in the Tentative Map.

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6. If any of the foregoing conditions fail to occur, or if they are, by their terms, to be implemented and maintained over time, if any of such conditions fail to be so implemented and maintained according to their terms, the City Council and Redevelopment Agency shall have the right to revoke or modify all approvals herein granted, deny, or further condition issuance of all future building permits, deny, revoke, or further condition all certificates of occupancy issued under the authority of approvals herein granted, institute and prosecute litigation to compel their compliance with said conditions or seek damages for their violation. Failure to satisfy the conditions of this Tentative Map may also result in the imposition of civil or criminal penalties.

CONDITIONS RELATED TO THE GRADING AND DRAINAGE

7. All onsite drainage and sewer facilities shall be private.
8. Applicant shall submit a detailed grading plan in accordance with the Chula Vista Grading Ordinance before issuance of first building permit. Details such as type, cross sections, and profiles of any proposed retaining walls, special drainage structures, and structural drainage BMPs shall be shown on the grading plans for City's review and approval.
9. Applicant shall submit a drainage study prepared by a registered civil engineer to be reviewed and approved by the City Engineer prior to issuance of a grading permit or other development permit. Design of the drainage facilities shall consider existing onsite and offsite drainage patterns. The drainage study shall calculate the pre-developed and the post-developed flows and show how downstream properties and storm drain facilities are impacted. If the post-development flows exceed the pre-development flows, the study shall include calculations sizing proposed detention system(s). The extent of the study shall be as approved by the City Engineer.
10. Applicant shall submit a detailed geotechnical report prepared, signed and stamped by both a registered civil engineer and certified engineering geologist prior to approval of grading plans and issuance of a grading permit.
11. Applicant shall fulfill the landscaping requirements as set forth by the City Landscape Architect prior to approval of grading plans.
12. Applicant shall provide a security in the amounts of: 25% of estimated earthwork costs; 100% of estimated costs of appurtenant structures, as determined by the approved engineer's estimate; 100% of landscaping and irrigation facilities; and 100% of landscape maintenance for a period stated on the Grading Permit, prior to approval of grading plans and issuance of a grading permit.

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CONDITIONS RELATED TO WATER QUALITY AND NPDES

13. Applicant shall comply with the Regional Water Quality Control Board Order R9-2007-0001 and the Chula Vista Standard Urban Storm Water Mitigation Plan (SUSMP) both as amended from time to time.
14. Applicant shall submit and obtain approval of a water quality technical report for the project prior to the issuance of a grading permit.
15. Applicant shall implement, prior to the final map NPDES best management practices ("BMPs") to reduce the amount of pollutants entering the city's storm water conveyance system, including but not limited to:
 - a. Installing and using efficient irrigation systems and landscape design; more specifically:
 - i. Employ rain shutoff devices to prevent irrigation after precipitation.
 - ii. Adjust irrigation systems to each landscape area's specific water requirements
 - iii. Using flow reducers or shutoff valves triggered by a pressure drop to control water loss in the event of broken sprinkler heads or lines.
 - iv. Employing other comparable, equally effective, methods to reduce irrigation water runoff.
 - b. Employing integrated pest management principles. More specifically, eliminate and/or reduce the need for pesticide use by implementing Integrated Pest Management (IPM), including: (1) planting pest-resistant or well-adapted plant varieties such as native plants; (2) discouraging pests in the landscaping design; (3) distributing IPM educational materials to homeowners/residents. Minimally, educational materials must address the following topics: keeping pests out of buildings and landscaping using barriers, screens, and caulking; physical pest elimination techniques, such as, weeding, squashing, trapping, washing, or pruning out pests; relying on natural enemies to eat pests; and, proper use of pesticides as a last line of defense.
 - c. Applicant shall Indemnify, and hold harmless the City, its elected and appointed officers and employees, from and against all fines, costs, and expenses arising out of non-compliance with the requirements of the NPDES regulations, in connection with the execution of any construction and/or grading work for the Project, whether the non-compliance results from any action by the Applicant, any agent or employee, subcontractors, or others. The applicant's indemnification shall include any and all costs, expenses, attorney's fees and liability incurred by

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the City.

- d. Applicant shall agree to not protest the formation of a facilities benefit district or any other funding mechanism approved by the City to finance the operation, maintenance, inspection, and monitoring of NPDES facilities. This agreement to not protest shall not be deemed a waiver of the right to challenge the amount of any assessment, which may be imposed due to the addition of these improvements and shall not interfere with the right of any person to vote in a secret ballot election.
 - e. Applicant shall agree to perpetually maintain storm drain BMPs, as recommended in the approved WQTR for the project.
16. Applicant obligation may be reassigned to a Homeowner's Association or other appropriate Maintenance District subject to the approval of the City Engineer.

PUBLIC IMPROVEMENTS

17. Applicant shall provide an improvement plan showing all existing and proposed public improvements such as driveways, curb, gutter, sidewalk for City's review and approval, prior to issuance of the first building permit. Proposed driveways shall be constructed per ADA requirements and per City of Chula Vista Design Standards. Developer is responsible for replacing any broken sidewalk along the project frontage. Developer shall secure any required improvements prior to final map approval.
18. Applicant shall provide the engineer's estimates for construction of public improvements, per Section 7-100 of the City of Chula Vista Subdivision Manual, before approval of the improvement plans.
19. Applicant shall provide bonds prior to the final map, for the faithful performance and for labor and material that will satisfy the provisions of Article (18.16.230) of the City of Chula Vista Municipal Code (CVMC).
20. Access to all existing or proposed public sewer manholes shall be provided pursuant to the Subdivision Manual.
21. Paved access to existing and proposed public sewer systems with manholes shall be designed for a minimum Traffic Index (TI) equal to 5.
22. Applicant shall secure in accordance with Section 18.16.220 of the CVMC, the construction and/or construct all sewer improvements required for the project, including but not limited to the on-site sewer system, the off-site upsizing of the 12" sewer line within Industrial Boulevard to a 15" line from Manhole 5106 to 5045, prior to the first final map. Said improvements shall include, but not be limited to trenching, sewer main and laterals, manholes to the satisfaction of the City Engineer. Developer may process a

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reimbursement agreement for the over-sizing of the sewer facility pursuant to Muni Code 15.50.

23. Prior to the approval of the first Final Map, the Applicant will be required to ensure to the satisfaction of the City Engineer that adequate capacity for its project will be available on or before the date that a unit or units are completed. Building permits will not be issued if the City Engineer has determined that adequate sewer capacity does not exist. All development must comply with the CVMC, specifically Sections 19.09.010 (A) 6 and 13.14.030.
24. Pursuant to mitigation measure #13, the Applicant shall submit plans and construct to the satisfaction of the City Engineer the partial median at the intersection of Frontage Road/Walnut Avenue & Palomar Street, prior to the issuance of the first building permit.

PRIVATE OR ON-SITE IMPROVEMENTS

25. Prior to the issuance of first building permit, the applicant shall complete the formation of a Homeowners Association to maintain on-site private improvements, including, but not limited to: all walls, fences, lighting structures, paths, recreational amenities and structures, sewage facilities, drainage structures, including BMPs, parking areas, driveways, and landscaping. Prior to the final map, applicant shall submit for City's approval the Codes, Covenants & Restrictions (CC&Rs). The CC&Rs shall authorize the City to enforce the terms and conditions of the CC&Rs in the same manner as any owner of the project.

CC&R'S

26. Applicant shall submit CC&R's as approved by the City Attorney to the City Engineer and Director of Planning and Building for approval prior to the first final map. Said CC&R's shall include the following:
- Indemnification of City for private sewer spillage.
 - Listing of maintained private facilities.
 - The City's right but not the obligation to enforce CC&R's.
 - Provision that no private facilities shall be requested to become public unless all homeowners and 100% of the first mortgage obligee have signed a written petition.
 - Maintenance of all walls, fences, lighting structures, paths, recreational amenities and structures, sewage facilities, drainage structures, including BMPs, parking areas, driveways, and landscaping.
 - Compliance with CVMC Section 8.24.100, Placement of containers for collection (trash).
 - Implement education and enforcement program to prevent the discharge of pollutants from all on-site sources to the storm water conveyance system.

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- Compliance with the approved solid waste plan.

Said CC&R's shall be consistent with Chapter 18.44 of the Subdivision Ordinance, and shall be recorded concurrently with the final map.

27. Applicant shall submit with the first final map homeowners association (HOA) budget for review and approval by the City Engineer for the maintenance of private streets, storm drains, including BMPs, sewage systems, and the corresponding streetscape and landscape improvements adjacent to the property being built through the Palomar Gateway Beautification Improvements. Said budget shall include the following maintenance activities:

- Streets must be sealed every 7 years and overlaid every 20 years.
- Sewers must be cleaned once a year with a contingency for emergencies.
- Red curbs / striping must be painted once every three years.
- Drainage BMPs shall be maintained per the recommendations made in the approved WQTR for the project.

The City of Chula Vista shall be granted the right, not the obligation, at its discretion, to enforce the terms and conditions of the Declaration, in order to ensure the maintenance of all streets, sewers, common areas, driveways, and drainage systems, including BMP's, which are private. All the individual condominium unit owners of the project shall be jointly and severally liable for any costs or expenses with a right of contribution for maintenance and repair of all private driveways.

EASEMENTS

28. Streets within the development shall be private. Reciprocal accesses easements or a covenant of easements shall be provided to allow access to both parcels from either the east or the west prior to the final map.
29. Applicant shall grant an easement for the purposes of maintaining any proposed public sewer or drainage lines to the City. This easement shall be shown on the final map.
30. Applicant shall grant an easement along the southerly driveway to the development to the south (Marcella Villas) for emergency access purposes. It shall be the responsibility of Marcella Villas to install and maintain the emergency access gate.
31. Prior to approval of the Final Map, Applicant shall grant an easement along the southerly driveway to the applicant and/or property owner of Phase 2/Lot 2 for all utilities.
32. Prior to approval of the Final Map, Applicant shall grant an easement to the City of Chula Vista at the northwest corner of Parcel 1 for the construction of an entry monument by the City of Chula Vista.

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33. All existing easements and irrevocable offers of dedication shall be shown on the final map. A title report dated within 60 days of submittal of the final map shall be submitted together with backing documents for all existing public utility easements and offers of dedication. Developer shall submit evidence of noticing to all existing public utility easement holders within the project boundaries as required by the Section 66436 of the Subdivision Map Act.

RIGHT-OF-WAY / Streets

34. Applicant shall dedicate right-of-way as shown on the Tentative Map for the purposes of the Palomar Street and Industrial Boulevard improvements. This dedication shall be shown on the final map.
35. Applicant shall secure or construct, prior to the final map, in accordance with Section 18.16.220 of the Municipal Code, the construction and/or construct full street improvements for all on-site and off-site streets improvements including but not limited to Industrial (Palomar Street to the southerly project boundary), Palomar Street (Frontage Road to Industrial Blvd.) and Frontage Road (Palomar Street to the southerly project boundary). Said improvements shall include, but not be limited to, asphalt concrete pavement, base, concrete curb, gutter and sidewalk, sewer, reclaimed water and water utilities, drainage facilities, street lights, traffic signals, signs, landscaping, medians, striping, signage, irrigation, fencing and fire hydrants.
36. Applicant shall pay for or enter into an agreement to pay for, any required construction change orders and design alterations, prior to issuance of the first building permit or at the discretion of the City Engineer, in coordination with the Palomar Gateway Beautification Improvements, including but not limited to the driveway and median at Industrial Boulevard. Street light locations shall be subject to the approval of the City Engineer.

AGREEMENTS

37. Applicant shall enter into an agreement prior to the final map to include the following additional provisions:
- Agree to defend, indemnify and hold harmless the City and its agents, officers, and employees, from any claim, action or proceeding against the City, or its agents, officers or employees to attack, set aside, void or annul any approval by the City, including approval by its Planning Commission, City Council or any approval by its agents, officers, or employees with regard to this subdivision pursuant to Section 66499.37 of the State Map Act provided the City promptly notifies the subdivider of any claim, action or proceeding and on the further condition that the City fully cooperates in the defense.

- Agree to hold the City harmless from any liability for erosion, siltation or increase flow of drainage resulting from this project.
- Agree to ensure that all franchised cable television companies ("Cable Company") are permitted equal opportunity to place conduit and provide cable television service to each lot within the subdivision. Restrict access to the conduit to only those franchised cable television companies who are, and remain in compliance with, all of the terms and conditions of the franchise and which are in further compliance with all other rules, regulations, ordinances and procedures regulating and affecting the operation of cable television companies as same may have been, or may from time to time be issued by the City of Chula Vista.

MISCELLANEOUS

38. Prior to the issuance of building permits, Applicant shall pay the following fees based on the final building plans submitted:
 - a) Sewer Connection and Capacities fees
 - b) Development Impact Fees
 - c) Traffic Signal Fees
39. Prior to the approval of any final map, Applicant shall pay costs associated with the initial two years of maintenance of the corresponding streetscape and landscape improvements, adjacent to the subject property, which are being built through the Palomar Gateway Beautification Improvements.
40. Prior to the approval of any final map, the Applicant shall pay all applicable Western Transportation Development Impact Fees (WTDIF) at the rates in effect at the time of approval of the final map.
41. Applicant shall tie the boundary of the subdivision to the California System-Zone VI (NAD '83).
42. Applicant shall submit copies of the Final Map, grading plans, and improvement plans in a digital format such as (DXF) graphic file prior to approval of the Final Map. Provide computer aided Design (CAD) copy of the Final Map based on accurate coordinate geometry calculations and submit the information in accordance with the City Guidelines for Digital Submittal in duplicate on 3 ½ HD floppy disk prior to the approval of the Final Map.
43. Applicant shall submit a conformed copy of a recorded tax certificate covering the property prior to approval of the Final Map.

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PARK AND DEVELOPMENT (GENERAL SERVICES)

44. Prior to the approval of the Final Map, the Applicant shall pay all applicable Parkland Acquisition and Development Fees (PAD fees) at the rates in effect at the time of approval of the map or building permit in accordance with C.V.M.C. Chapter 17.10.

WATER CONSERVATION PLAN/AIR QUALITY IMPROVEMENT PLAN

45. Applicant shall implement all conservation measures contained in the Bayvista Walk Water Conservation Plan (WCP) and Air Quality Improvement Plan (AQIP), during project implementation.
46. All water conservation measures contained in the Bayvista Walk WCP shall be identified on construction plans including hot water pipe insulation, pressure reducing valves, water efficient dishwashers, water efficient landscaping and evapotranspiration (ET) controllers.
47. All air quality measures contained in the Bayvista Walk AQIP including the specific building efficiency program to be used shall be identified on construction plans.
48. During project implementation, Applicant shall implement the final AQIP measures as approved by the City Council, and as may be amended from time to time, and to comply and remain in compliance with the AQIP.
49. Applicant acknowledges that the City Council may, from time-to-time, modify air quality improvement and energy conservation measures as technologies and/or programs change or become available. The Developer shall modify the AQIP to incorporate those new measures upon request of the City, which are in effect at the time, prior to or concurrent with each map approval within the Project. The new measures shall apply to development within all future map areas, but shall not be retroactive to those areas, which receive final map approval prior to effect of the subject new measures. The Developer acknowledges and agrees that the City has adopted the City of Chula Vista AQIP Guidelines as approved per Resolution No. 2003-260 and that such guidelines as approved and as may be amended from time-to-time shall be implemented.
50. Applicant shall implement the final WCP measures as approved by the City Council, and as may be amended from time to time, and to comply and remain in compliance with the WCP.
51. Applicant acknowledges that the City Council may, from time-to-time, modify water conservation measures as technologies and/or programs change or become available. The Developer shall modify the WCP to incorporate those new measures upon request of the City, which are in effect at the time, prior to or concurrent with each map approval within the Project. The new measures shall apply to development within all future map areas,

but shall not be retroactive to those areas, which receive final map approval prior to effect of the subject new measures. The Developer acknowledges and agrees that the City has adopted the City of Chula Vista WCP Guidelines as approved per Resolution No. 2003-234 and that such guidelines as approved and as may be amended from time-to-time shall be implemented.

ENVIRONMENTAL MITIGATION CONDITION

52. The applicant shall implement to the satisfaction of the Planning and Building Department and the City Engineering Division the mitigation measures identified in the Bayvista Walk Mitigated Negative Declaration (IS-05-012) and Mitigation Monitoring and Reporting Program. Applicant shall agree to remain in compliance with said Mitigations Measures.

AFFORDABLE HOUSING REGULATORY AGREEMENT

53. In lieu of building affordable housing [pursuant to the Housing Element Balanced Communities ("Inclusionary") Policy], the Applicant shall, prior to the issuance of the first building permit, convey Lot 2, free and clear of all encumbrances other than those approved by the City Attorney, to the Redevelopment Agency of the City of Chula Vista. Applicant shall provide with the final map; a Title Report for Lot 2, a Phase I Hazardous waste Report for Lot 2 and Title Insurance equal to the value of Lot 2.

FIRE CONDITIONS

54. Applicant shall obtain the fire marshal's approval for a lighted directory and other emergency measures prior to the first final map for the project.

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